

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

LISA GAIL THOMPCKINS, and)	
HARVEY SANFORD BOONE, III)	
Plaintiffs,)	
v.)	1:12CV613
KEY HEALTH MEDICAL SOLUTIONS,)	
INC.,)	
Defendant.)	

ORDER

BEATY, District Judge.

This matter is before the Court on a Memorandum Opinion, Order, and Recommendation of the United States Magistrate Judge recommending that the Motion to Dismiss [Doc. #21] filed by Defendant Key Health Medical Solutions, Inc. (“Defendant”) be denied. The Magistrate Judge also ordered that the Motion for Class Certification [Doc. #23] filed by Lisa Gail Thompkins and Harvey Sanford Boone, III (collectively “Plaintiffs”) be stayed and that all proceedings in this matter be stayed pending final adjudication of the class action in Washington v. Key Health Medical Solutions, Inc., Case No. BC473716 (Los Angeles, CA Superior Ct.). Additionally, the Magistrate Judge ordered that Defendant’s Request for Judicial Notice [Doc. #28] be granted, that Plaintiffs’ Request for Judicial Notice and for Leave to Submit New Evidence in Support of the Motion for Class Certification [Doc. #52] be granted, that Defendant’s Motion to Strike Plaintiffs’ Disclosure of New Matters [Doc. #54] be denied, and that Plaintiffs’ Motion for Oral Argument on Class Certification [Doc. #61] be denied as moot.

The Recommendation was filed on March 23, 2015, and notice was served on the parties pursuant to 28 U.S.C. § 636(b). On April 9, 2015, Defendant filed timely Objections, to which

Plaintiffs filed a response on April 27, 2015. The Court has now reviewed de novo the Objections and the portions of the Recommendation to which objection was made.

Insomuch as the Objections address the Magistrate Judge's ruling concerning Defendant's Motion to Dismiss, the Court finds that those particular Objections do not change the substance of the United States Magistrate Judge's ruling on the Motion to Dismiss. The Magistrate Judge's Recommendation [Doc. #64] as to Defendant's Motion to Dismiss is therefore affirmed and adopted. Furthermore, to the extent that the Defendant objects to the Magistrate Judge's rulings concerning Plaintiffs' Request for Judicial Notice and for Leave to Submit New Evidence in Support of the Motion for Class Certification and Defendant's Motion to Strike Plaintiffs' Disclosure of New Matters, the Court finds such objections to be without merit. Accordingly, the Magistrate Judge's Order [Doc. #64] as to Plaintiffs' Request for Judicial Notice and for Leave to Submit New Evidence in Support of the Motion for Class Certification and Defendant's Motion to Strike Plaintiffs' Disclosure of New Matters is affirmed and adopted. Also, to the Court notes that Defendant did not object to the Magistrate Judge's Order [Doc. #64] on Defendant's Request for Judicial Notice. The Court finds no clear error in such ruling, and therefore affirms and adopts the Magistrate Judge's Order concerning Defendant's Request for Judicial Notice.

However, in light of Defendant indicating that a final adjudication of Washington v. Key Health Medical Solutions, Inc. has occurred, the Court will resubmit Plaintiffs' Motion for Class Certification and the decision to stay proceeding in this matter to the Magistrate Judge for further consideration. Additionally, the Court will resubmit Plaintiffs' Motion for Oral

Argument on Class Certification, which the Magistrate Judge had previously denied as moot, for further consideration should the Magistrate Judge consider it necessary.

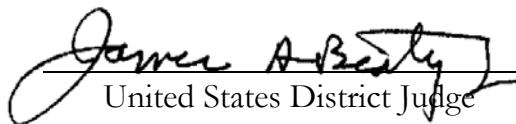
IT IS THEREFORE ORDERED that the Defendant's Motion to Dismiss [Doc. #21] is DENIED.

IT IS FURTHER ORDERED that Defendant's Request for Judicial Notice [Doc. #28] is GRANTED, that Plaintiffs' Request for Judicial Notice and for Leave to Submit New Evidence in Support of the Motion for Class Certification¹ [Doc. #52] is GRANTED, and that Defendant's Motion to Strike Plaintiffs' Disclosure of New Matters [Doc. #54] is DENIED.

IT IS FURTHER ORDERED that Plaintiffs' Motion for Class Certification [Doc. #23] and the decision to stay all proceedings in this matter are RESUBMITTED to the Magistrate Judge for further consideration.

IT IS FURTHER ORDERED that Plaintiffs' Motion for Oral Argument on Class Certification [Doc. #61] is also RESUBMITTED to the Magistrate Judge for further consideration should the Magistrate Judge consider it necessary.

This, the 24th day of June, 2015.


United States District Judge

¹The Court notes, that in granting Plaintiffs' Request for Judicial Notice and for Leave to Submit New Evidence in Support of the Motion for Class Certification, the Court is not providing leave for Plaintiff to submit any further evidence than that which the Magistrate Judge has previously considered in the Memorandum Opinion, Order, and Recommendation [Doc. #64].